THE

TRIAL

OF

John Donnellan, Esq.

(Late MASTER of the CEREMONIES at the PANTHEON in Oxford-Street)

AT THE

ASSIZES holden at WARWICK,

On *Tuesday* the 27*th* of *March*, 1781,

BEFORE

FRANCIS BULLER, Esq.

One of the JUDGES of the COURT of KING'S BENCH,

FOR THE

WILFUL MURDER

OF

Sir Theodosius Boughton, Bart.

Taken in Short-Hand by a BARRISTER at LAW, attending the MIDLAND CIRCUIT.

LONDON:

Printed for, and sold by, T. BREWMAN, at No. 1, the Top of *Fleet-Market*, facing the *Obelisk*, in *Fleet-Street*.

THE

TRIAL

OF

John Donellan, Esq.

(LATE CAPTAIN of the QUEEN DRAGOONS)

AT THE

ASSIZES, holden at WARWICK,

On Friday the 9th of March, 1781,

BEFORE

FRANCIS BULLER, Esq.

One of the JUDGES of the COURT of KING'S BENCH,

FOR THE

WILFUL MURDER

OF

Sir Theodosius Boughton, Bart.

THE

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OF

JOHN DONNELLAN, Esq.

FOR THE

WILFUL MURDER

OF

Sir T. E. A. Boughton, Bart:

The following are the GRAND JURY.

The Hon. W. WILLIAM HEWITT, Foreman.

Theo. Biddulph, Esq.
Gower Townshend, Esq.
Th. W. Knightly, Esq.
Matthew Wise, Esq.
Miller Sadler, Esq.
Christ. Wren, Esq.
Bertie Greathead, Esq.
John Grieve, Esq.
Thomas Webb, Esq.
Tim. Goodwin, Esq.
C. P. Packwood, Esq.
John Halifax, Esq.
R. A. Johnson, Esq.
Joseph Carles, Esq.
John Mallory, Esq.
Jos. Boultby, Esq.
Edward Pallas, Esq.
John Hobbins, jun. Esq.
P. S. Littleton, Esq.

JOHN WEBB, Esq. Sheriff.

The following is the JUDGE's CHARGE to the JURY.

Gentlemen of the Grand Jury,

I AM extremely pleaſed at your meeting me ſo early this ſeſſions, as by your attendance, I hope I ſhall be able to get through the buſineſs of the county in the courſe of the week: I am the more ſatisfied at this circumſtance, as I perceive your calendar extremely loaded indeed, and that it contains a longer and heavier liſt of crimes, than I have found charged in the calendars of ſeven counties.

Amongſt theſe, I find ſome in particular, which require no inconſiderable attention; and the firſt of conſequence which I find in the liſt, is ſuch as may depend on circumſtances only. It is a crime of ſo peculiar a nature, that it is generally committed with the greateſt ſecrecy, and over which the offender always makes uſe of every art and cunning to throw a veil.—It is your duty, Gentlemen, to throw off this veil and ſift the buſineſs to the bottom.—You are not to expect viſible proofs in a work of darkneſs; you are to collect the truth from circumſtances, and little collateral facts, which taken ſingly, afford no proof, yet put together, ſo tally with, and confirm each other, that they are as ſtrong and convincing evidence, as any facts that appear in the broad face of day.

In this caſe, Gentlemen, you will have two objects to conſider: Firſt, whether the deceaſed did die of poiſon? Secondly, whether the perſon ſuſpected, did aſſiſt in adminiſtering that poiſon? With reſpect to the firſt of theſe conſiderations you will no doubt hear the ſentiments of thoſe who are ſkilled in the nature and effects of poiſon, which is of various ſorts, and moſt ſubtle in its operation. From the information of ſuch perſons, you will be able to form an opinion upon the effect which *different* poiſons have on *different* perſons, and alſo the effects the *ſame* poiſons

poiſons have on perſons of different habits, and conſtitutions. But in this enquiry, Gentlemen, the opinions of ſuch perſons are not to *controul*; they are only to *aſſiſt* your determination; and if you ſhould find that they diſagree, you will then find it neceſſary to enquire, whether any, and what means were uſed to ſecrete any circumſtances that might lead to more certain evidence. It will alſo be proper for you to conſider the ſtate of health in which the deceaſed had been previous to, and at the time of this unfortunate affair: Whether he was well or indiſpoſed, and if indiſpoſed, *what* medicines were preſcribed for him, and *by whom*. If you find he did get his death by poiſon, the next caſe is to conſider, who gave him that poiſon. Where poiſon is knowingly given, and death enſues, it is *wilful murder*, and if he was *preſent* when poiſon was given by another, he is not an *acceſſary*, but a *principal*.

There are two ways, by which the law conſiders a perſon as preſent in ſuch caſes; there is an *actual* and a *conſtructive* preſence. To be actually *preſent*, is to be in the room with, and within ſight of the perſon, when the poiſon is adminiſtered. To be *conſtructively* preſent, is to be in the houſe, knowing and aſſenting to what is done. There are caſes, in which a man may be an hundred miles off, and give poiſon to another to adminiſter to a third, there the perſon who unfortunately adminiſters the poiſon, if ignorant of the intention, *is not guilty*, but the perſon who gave it for that purpoſe, though at ſo great a diſtance, is guilty of murder.

I will here mention one caſe, in which a perſon gave poiſon to another to adminiſter to a third, but the perſon to whom he gave it for that purpoſe, knowing as well as he did, that it was poiſon, then it was determined that the perſon who ſo gave it, was not a *principal*, but *an acceſſary before the fact*.

I muſt obſerve to you, that if an *innocent* medicine is changed for a *noxious* one by ſubſtitution, he who changes

changes it is guilty of murder if the perſon dies. If the indictment ſhould ſtate that the deceaſed died by any particular poiſon, and it ſhould appear upon enquiry, that he died of another ſort of poiſon, I am to inform you, that the difference is immaterial with reſpect to the law, it being held ſufficient, in ſuch caſe, that the deceaſed was poiſoned. It is proper to remark to you, that the crime of murder, by means of poiſon, has ever been conſidered as the moſt odious of all crimes, as it is a ſpecies of murder of a kind that implies a peculiar premeditation, and in former times was held of ſo horrid a nature, that the perſons found guilty of it were boiled to death in water or in lead, though at preſent the crime and puniſhment ſtand undiſtinguiſhed.

But whilſt I am thus deſcribing the odious and horrid nature of this ſpecies of murder, it is neceſſary to caution you againſt applying your deteſtation of the crime itſelf to the perſon accuſed of it. It is not your place to enquire into the immediate guilt or innocence. It is for you merely to enquire whether there is ſufficient ground of ſuſpicion to put him on his trial, and call on him to prove his innocence.

There are two other caſes of murder to come alſo before you, on which it may be neceſſary for me to ſay a few words; the one is where death is cauſed without a direct act, or by indirect means, in which there is malice implied; as by ſtarving, for inſtance; or when a priſoner dies by dureſs of a goaler, in ſuch caſes it is *murder*. Alſo, when a child is expoſed to the inclemency of the weather, and of conſequence dies; or if a pauper, by the vexatious removal of pariſh officers, dies of cold, being removed when in an improper ſtate, the law decides that there is malice implied, and the crime is *murder*. So, in the ſecond caſe two men go out together, without any deſign to commit murder, though with an intent to commit ſome other felonious act, and one of them in that purſuit ſhould kill a man, they are both principals

in

in *murder*; for the previous deſign of committing felony, carries with it the implied malice which in law conſtitutes that crime.

Two other caſes will alſo come under your cognizance with reſpect to a burglary and a burglarious entry. The one is for breaking open a houſe in the night, and ſtealing goods; this is common burglary. The other is for breaking open a houſe in the night, without ſtealing any thing out of it; this alſo is burglary, and the difference to be made between them is merely in the *form* of the indictment, which will ſtate the burglarious act to have been committed, with intent to commit felony. In this caſe you will conſider the intention, and by that you will form your deciſion.

I have thought it neceſſary, Gentlemen, to throw out theſe few hints for your information upon thoſe caſes that appeared to me to require ſome obſervation; and I ſhall be happy if you find them uſeful in directing your proceedings in the arduous duty to which you are called by your country.

FRIDAY, *March* 30th.

At ſeven o'Clock in the morning, the Judge came into court, but it was near an hour before the jury could be ſworn, owing to an amazing number being challenged by the priſoner, and the court being ſo crouded that it was impoſſible for them to come forward.

The priſoner being placed at the bar, the indictment was read over to him.

INDICTMENT.

JOHN DONNELLAN, Eſq; ſtood charged with the wilful murder of Sir *Theodoſius Edward Allen Boughton*, Baronet, on the 30th of Auguſt 1780, by deviſing and intending to poiſon, kill, and murder; felonioufly,

feloniouſly, wilfully, and with malice aforethought, the ſaid Sir *Theodoſius*, by having put, or cauſed to be put, placed and left in the lodging room of the ſaid Sir *Theodoſius*, at his mother's ſeat at Lawford-Hall, in the Pariſh of Neubourn-on-Avon, a certain draught containing two drams of Arſenic, which he did mix, mingle, and infuſe into water, and afterwards put into a ſmall phial, of the value of one penny, in order that the ſaid Sir *Theodoſius* might miſtake the ſaid draught for an innocent medicine which had been ſent him for a ſalutary purpoſe, and thereby take, drink, and ſwallow down into his body the ſame; and the ſaid Sir *Theodoſius* not knowing that the ſaid arſenic had been ſo mixed, mingled, and infuſed, did take, drink and ſwallow down into his body, the ſaid draught ſo placed and left, inſtead of the medicine which had been before preſcribed, by which means he became ſick and diſtempered in his body, and did die on the 30th of Auguſt, 1780.

There were two other counts, one at common law, and the other on the ſtatute, he was likewiſe indicted on the Coroner's Inqueſt.

Counſellor Digby opened the proſecution, by informing the court, that the priſoner, *John Donnellan*, Eſq; ſtood charged with the wilful murder of Sir *Theodoſius Edward Aſtley Boughton*, Baronet, on the 30th of Auguſt, 1780; to which he had pleaded Not Guilty, and had put himſelf on his trial by God and his Country.

Counſellor Howarth then addreſſed the Jury as follows:

Gentlemen of the Jury,

THE Priſoner at the bar ſtands charged with the wilful murder of Sir *Theodoſius Edward Aſtley Boughton*, Baronet; his caſe is of ſo black a dye, that it excites the indignation of all honeſt minds, and the nature of the preſent enquiry calls on you for your ſober

and

and diſpaſſionate inveſtigation of it. The murderer is not pointed out here, by any bloody marks, as is frequently the caſe in crimes of the like nature, for the dark buſineſs he has been concerned in, can only be traced by circumſtances; but it is my duty to point out to you what theſe circumſtances are, and you will, under the direction of a learned and upright Judge, who will not ſuffer any improper evidence to come before you, find that the unfortunate young man deceaſed, Sir *Theodoſius Edward Aſtley Boughton*, was a young man of an antient and reſpectable family, and who, had he attained the age of 21 years, would have been poſſeſſed of a conſiderable eſtate, but on his deceaſe, if before the age of 21, the ſaid eſtate would in a great meaſure go to the ſiſter of Sir *Theodoſius*, the wife of the priſoner. I will prove to you that the priſoner, for a conſiderable time before the death of Sir *Theodoſius*, was frequently heard to ſay, that Sir *Theodoſius* was of a bad ſtate of health, that he would not live long, that his life was not worth a year's purchaſe, and by theſe means ſeemed to be preparing the family for the dreadful event that was ſhortly to enſue. Sir *Theodoſius*, a few days previous to his death, Gentlemen, intended a journey into Northamptonſhire to Mr. Fonnereau, he had for a ſmall ſpace of time before, been troubled with a ſlight venereal complaint, and was attended by Mr. *Powell*, an Apothecary, who, on the 29th of Auguſt laſt, made up an innocent preſcription for him, and ſent it over to Lawford-Hall, by one of Sir *Theodoſius*'s ſervants who went for it on purpoſe. The draught ſo prepared was to be taken the next day, which the priſoner well knew.—On the ſervant's bringing home the draught he gave it to Sir *Theodoſius*, who placed it on a ſhelf in his own room, and then went out with the ſervants a fiſhing. At this time, Gentlemen, the deceaſed was in perfect health and ſpirits, except the ſlight complaint I before mentioned. Lady *Boughton* and Mrs. *Donnellan* were at this time, walking in the garden, where the priſoner joined them,

 ſaying

ſaying he had been ſeeing Sir *Theodoſius* fiſh, and had adviſed him to leave off as he would catch cold, Now the whole of this converſation was a falſehood, for he had not been ſeeing Sir *Theodoſius* fiſh, nor had he ſpoke to him, by which I muſt leave you to judge whether the priſoner had not ſome intereſted views to anſwer, by telling Lady *Boughton* the lying, artful tale he did.—About three o'Clock that ſame evening, Sir *Theodoſius* came home from fiſhing, eat his ſupper heartily and went to bed in perfect health. On the next morning about 6 o'Clock, he was waked by his ſervant, and leapt out of bed to give him ſomething from his pocket; about 7 o'Clock Lady *Boughton* got up, and on going into her ſon's room, ſhe requeſted to know if he had taken his phyſic, he replied no, and requeſted her to give it him; which ſhe did. Gentlemen, it will be ſhewn you in evidence; why this medicine which uſed to be locked up, was now left out open in Sir *Theodoſius*'s room. Sir *Theodoſius* had once forgot to take his phyſic, upon which the priſoner ſaid, you ſhould not lock up your phyſic, you ſhould place it on your ſhelf in your own bed room, then you cannot forget it. The draught which his mother gave him, he had not half ſwallowed, before he complained of its being ſo nauſeous to the taſte, that he could not keep it down, upon which Lady *Boughton* ſmelt to the bottle and ſaid ſhe thought it had the ſcent of bitter almonds. The deceaſed deſired her to give him ſome cheeſe to put the taſte out of his mouth, which ſhe did and he ſpit it out again, he then rinced his mouth with ſome water, and ſpit that out likewiſe; he laid himſelf down, but had not been in that poſture three minutes before he appeared much affected—Lady *Boughton* thought it was owing to his being ſet againſt the medicine by the nauſeous taſte—ſhe left him ſeemingly rather compoſed, but on her return in about ten minutes, ſhe found the young man ſtruggling in the agonies of death, his eyes fixed, his teeth clenched, and

and foming at the mouth; in theſe agonies he continued until his death, which was in leſs than half an hour, as will be proved by her Ladyſhip whenever ſhe is called.——If you ſhould find, Gentlemen, in the courſe of your enquiry that this young man was poiſoned, it will be quite immaterial what that poiſon was that occaſioned his death; a young man juſt turned of 20 years, of a good conſtitution, no diſorder that could endanger life, being in perfect health in the morning, and complaining of a draught the moment he took it, with the ſymptoms that followed after, will, I truſt, make it appear quite plain that he was poiſoned.

The indictment ſtates arſenic to be the cauſe, but I believe it will be found to be *laurel water*, and it will likewiſe be plainly proved, that the draft given by Lady Boughton to her ſon was not the draft compoſed and ſent by Dr. Powell. There is a circumſtance Gentlemen, and a very important one to, reſpecting this laurel water. I ſhall prove that the priſoner had for ſome time previous to the death of Sir Theodoſius, uſed a *Still* which he kept in his room, but a ſhort time after Sir Theodoſius's death this ſaid ſtill was filled with wet lime, for laurel water is of that ſtrong nature that nothing but lime would take away the ſmell, and to be more certain of the ſmell being thoroughly evaporated he cauſed the ſaid ſtill to be put into an oven: now the vague excuſes made by the priſoner for his conduct about the ſtill, will, as far as circumſtantial evidence can be allowed plainly prove his guilt, for what did he ſay on the delivery of this ſtill to the ſervants to clean. Why, I have been uſing this lime to kill fleas in my bed room, Could it be ſuppoſed a gentleman would ſay or do this? No, certainly.

Lady Boughton on her return into her ſons, room, after ſhe had left him, as ſhe thought a little compoſed, was ſurprized to find him ſtruggling with death, and ſent for Dr. Powell and the priſoner. The priſoner arrived firſt, and pray let me draw your attention to

what paſſed in the room of the deceaſed on the priſoner's coming. Lady Boughton ſaid to him, What draft has Dr. Powell ſent? I have given my ſon that which I am confident, from its operation would have killed a dog. The priſoner replied Damn him why did he ſend it, where is the bottle? upon which Lady Boughton gave it him, and he directly poured ſome water into it, rinced it, and emptied it into the waſh, hand baſon. Lady Boughton ſaid, for God-ſake what are you about? upon which he took another bottle and rinced that for fear he had been miſtaken, as there were two bottles on the ſhelf.

Sarah Blundell, a maid ſervant ſince dead, and who, had ſhe been living, could have given a very material evidence, was deſired by the priſoner to take away the bottles from out of the room, upon which Lady Boughton remonſtrated, as it was improper until Mr. Powell the Apothecary came, upon which the priſoner grew warm, and continued ſo until Dr. Powell came. But pray attend to what happened on Dr. Powell's coming. The priſoner never enquired of him what the medicine was that he ſent, but on the contrary, took great pains to perſuade him that the deceaſed had been out late a fiſhing, and had caught ſo violent a cold as to occaſion his death; and Mr. Powell is ſuffered to go home without a word being ſaid to him about the bottle, or about what it contained, that he might clear his character; and the manner in which the priſoner went about the houſe during the time Sir Theophilus lay in agony, is not to be accounted for; for to one he ſaid the fooliſh fellow had caught his death by a cold, fiſhing; to another, that he died of the venereal diſeaſe; and to a third, that he had wetted his feet. Now; Gentlemen of the jury, how could the priſoner know that the deceaſed had wetted his feet; he had not been fiſhing with him, nor was he near him, altho' he ſaid ſo, which I ſhall plainly prove; and with reſpect to his feet being wet, Lady Boughton had prudence enough

to

to examine his ſtockings, and they were perfectly dry. Sir Theodoſius, being dead, the priſoner thought it neceſſary that ſomething ſhould be ſaid to Sir *William Wheeler* his guardian, upon which he wrote him the following letter:

" Dear Sir,

" I AM ſorry to be the meſſenger of Sir Theo-
" doſius's death to you, but he has been ill for ſome
" time paſt, and under Dr. Powell's hands. *Lady*
" *Boughton* and my wife are inconſolable, and join
" with me, &c. &c.

" JOHN DONNELLAN."

This letter was meant to blind Sir William Wheeler, and it had the deſired effect; it prevented him from coming over to Lawford-hall to ſee him, and the deceaſed was kept cloſe from view until the time his coffin was ſoldered up.—But ſuſpicions grew and ſpread themſelves to Sir William Wheeler's ears, upon which he writes a letter to the priſoner in expreſs terms, that he had been informed of Sir Theodoſius's dying by poiſon, and deſired that the body might be opened by Dr. Rattray, Dr. Wilmour, and Dr. Snow. ——The priſoner dared not reſiſt the requiſition, and therefore ſent back a note, of his, and the family's approbation of Sir William's requeſt.—Sir William ſent another letter to inform the priſoner that he could not come over himſelf to be preſent, but deſired him to proceed.—On Monday Dr. Rattray and Mr. Wilmour met at Lawford-hall, and the priſoner took them into the parlour, and aſked them if they had ſeen Sir *William Wheeler?* They replied, No.—The priſoner immediately ſays, I have received a letter from Sir *William* for you to attend, but he never ſhewed them the firſt letter and only a part of the ſecond, which part did not mention the apprehenſion of poiſon, it only ſpoke in general terms, that the body was to be opened, the letter the priſoner ſhewed could give no light to the ſubject, but inſtead of telling the Doctors the cauſe of ſuſpicion, he endeavoured to blind them.

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They aſked h'm why the deceaſed was to be opened?—He replied, for the ſatisfaction of us all.—And they finding the body in a ſtate of putrefaction, not knowing the reaſon why it was to be opened, and being apprehenſive there was perſonal danger from the ſmell, were ſuffered to depart home by the priſoner, without one ſingle queſtion being aſked with reſpect to their opinion. On the next morning Mr. *Bucknell*, a ſurgeon, came to Lawford-Hall, and finding that the two gentlemen, who had been there had declined opening the body, he offered at all hazards to open the body himſelf, for the "ſatisfaction of the public:—But what was the priſoner's conduct here? why, the priſoner would not ſuffer him to open the body, under the pretence that Sir *William Wheeler* had not mentioned him, and that two of the Doctors that he had mentioned, had declined it.—After Dr. *Bucknell* had gone away, the priſoner wrote a ſecond letter to Sir *William Wheeler*, as follows:

"Dear Sir,

"Give me leave to expreſs what a heart felt ſatis-
"faction the receipt of your letter gave Lady *Bough-*
"*ton*, my wife and myſelf; I ſent immediately for
"Dr. Rattray, and Mr. Wilmour, they came, and I
"gave them your letter to peruſe, and to act as you
"directed, and I am happy to inform you they have
"fully ſatisfied us."

Now did he give the letter which Sir *William Wheeler* ſent him, to the Doctors? No. The one he ſhewed was the ſecond letter, a mere complimentary one, excuſing Sir *William*'s perſonal appearance; beſides, how could he write that the Gentlemen *had fully ſatisfied us?*—What was aſked them?—Not a ſingle queſtion, and yet he had openly the daring audacity to write that they had "fully ſatisfied us." This very affair, Gentlemen, ſpeaks as ſtrong as a thouſand witneſſes againſt him; and I ſhall wiſh you to hear from the gentlemen of the faculty, the ſtate they

found

found the body in when they did open it, which will be an additional proof of the priſoner's guilt.

The letter to Sir *William Wheeler*, Gentlemen, then goes on as follows:

" Sir *Theodoſius* had uſed to take mercurial oint-
" ment to diſpel a large bubo, the ſame as he did at
" Eaton, but Sir *Theodoſius* was obſtinate as uſual;
" however, I recommended him to Mr Powell, who
" I believe, did all that man could do, but he re-
" fuſed both my advice and Lady *Boughton's*, who
" with my wife, join with me, &c. &c.

" JOHN DONELLAN."

This letter had the deſired effect: it blinded Sir *William Wheeler*, who thought, if they were ſatisfied, he was; but what was his ſurprize when in three or four days time he found the body had not been opened; what does Sir *William Wheeler* do? why is every honeſt man would have done. He writes again and deſires that Mr. Snow might be ſent for, Mr. Snow arrives at Lawford hall, and is told by the priſoner that Dr. Rattray and Mr. Wilmour had declined to open the body, and he, like the two others, is ſent away without opening the body; and when Bucknell arrives, he is told that Snow declined to open the body, and is likewiſe ſent away on a frivolous pretence. After all this, he ſtill concealed the body, and at the expiration of nine days had it privately buried, and then writes to Sir *William Wheeler* another letter as follows:

" Dear Sir,

" I refer you to Dr. Rattray and Mr. Wilmour,
" who were with the body. Mr. Bucknell called
" in, and ſaid he heared we wiſhed the body to be
" opened; I told him, had you ſent for him, he
" ſhould have been welcome. This, Sir, was on the
" eighth day, and had not the body been ſoldered up,
" he ſhould have ſeen it. The burial Sir is fixed for
" to day at three o'clock unleſs you wiſh it poſtponed,
" if you do ſend word over.

" JOHN DONNELLAN."

Between

Between three and four o'clock the body was buried without being opened, and on the country people appearing alarmed, the body was taken up an, opened. the What appearance, were then, you'll hear of the faculty that attended. It will be enough for me to say, that the opening of the body confirmed them that were present that this unfortunate young man was poiſoned. When Lady Boughton and Mrs. Donnellan were called before the coroner, and the circumſtance of finding the bottle was mentioned, the priſoner was obſerved by one of the Jury to pull her by the ſleeve to ſtop her. Now, Gentlemen, let me aſk you what folly can account for ſuch a tranſaction? No art can wipe it away: it ſhewed like the act of a guilty man. On the priſoner's return to Lawford-hall from the coroner's, he chided Lady Boughton for ſpeaking of the bottle, telling her that ſhe was not bound to mention any thing but what was aſked her. If he was an innocent man, why, in the name of God, would he wiſh to conceal any thing; but he was at laſt almoſt forced, when he ſaw no probability of getting rid of the ſuſpicion, to write a letter to the coroner on the jury's laſt day of their ſitting, which was as follows:

To the Coroner and Gentlemen of the Jury.

"Underſtanding from report that a meeting is to be "held to day, I hold it as my duty to give you every "information in my power, as does lady Boughton "and Mrs. Donnellan. Whilſt Sir Theodoſius was "here every preparation was uſed by him to kill "rats, he frequently bought arſenic by the pound "weight at a time, and laid it about to deſtroy rats, "poiſon fiſh, &c. we uſed frequently to expoſtulate "with him upon the impropriety of his conduct, "and uſed to receive for anſwer, that the men knew "where he laid it. We have not eat at table with "him for many months, nor have we eat of any "thing he has touched. He uſed to make up balls "from a recipe in a book that he had, and the gar-

"dener

" dener informs me, that he has found fish which " Sir Theodosius used to slit and rub with poison, " &c. &c.

Now, independent of this, you will hear that the facts stated in the letter are not true, and that the prisoner was committed on the coroner's warrant; since which time he has had conversations in gaol with a man named Derbyshire, to whom he has often said he thought Sir Theodosius was poisoned. Derbyshire made answer, who do you think poisoned him; the prisoner answered, it must be among themselves.—On being asked who he could mean by themselves, he replied, the family and apothecary. Upon Derbyshire's saying, I cannot suppose he murdered himself. No, replied the prisoner, I don't think he did: why, the apothecary would not poison him, for he would lose a patient, the servants would lose a good master, and it was unnatural to think that his mother would do it. Since his confinement he has written a letter to his wife, which, as it was not sealed I shall, in the course of my evidence, produce a copy of.

I have mentioned these facts, gentlemen, which I will prove to you, and the nature of the case calls aloud for justice, and that you will inflict that punishment on the prisoner that the heinousness of his crime deserves.

Mr. POWELL, *apothecary, sworn.*

Q. What profession are you of?

A. An apothecary.

Q. Where do you live?

A. At Rugby, about three miles from Lawford-hall.

Q. Had you, previous to his death, been employed in the family?

A. About two months.

Q. In what state of health was he?

A. He had a venereal complaint.

Q. To what degree?

A. A freſh complaint; not very high.

Q. Did you give him any medicines?

A. Yes, ſome phyſic; I ceaſed to give him phyſic for three weeks, and then began again.

Q. How came you to give him ſome again?

A. Becauſe he had a ſwelling on his groin.

Q. What phyſic did you give him?

A. Four doſes; two of manna and ſalts, and two of rhubarb and jalap.

Q. When was it that you gave him the laſt?

A. On Tueſday, the 29th of Auguſt; I ſent him ſome before, on the Sunday.

Q. By whom did you ſend them?

A. By Samuel Froſs.

Q. How long before the laſt doſe was ſent had you ſeen him?

A. The ſame day.

Q. How was he?

A. In great ſpirits and good health.

Q. How was he on Sunday?

A. The ſame.

Q. Did you aſk him how the medicines agreed with him?

A. He ſaid it made him rather ſick.

Q. Have you a draught of the ſame ſort in your pocket?

A. Yes. [*Produced two phials.*]

Q. What does it contain?

A. Rheubarb and jalap, nutmeg water, and ſpirits of lavendar.

Q. What does that other bottle contain?

A. The ſame quantity of rheubarb and jalap, but no ſimple water; it is compoſed of laurel water.

Q. Was you ſent for to Lawford-Hall after Sir Theodoſius's deceaſe?

A. Yes; on the Wedneſday morning.

Q. What meſſage did the ſervant bring you?

A. He ſaid, Sir Theodoſius was very ill, and he was ſent by lady Boughton to fetch me.

Q. At what time did you get there?

A. About nine o'clock.

Q. Did you go into Sir Theodoſius's room?

A. Yes; Mr. Donnellan went in with me, and ſome maid ſervants.

Q. Was lady Boughton there?

A. No.

Q. In what ſituation did you ſee Sir Theodoſius?

A. Nothing particular; there was no diſtortion; he had been dead near an hour.

Q. Did Mr. Donnellan aſk you any queſtion?

A. No; none.

Q. How long did you ſtay?

A. Ten minutes.

Q. Did you ſay any thing to him?

A. Yes; I aſked him how he died; he replied, in convulſions.

Q. Did you ſee the bottles you had ſent, or were they in the room?

A. No.

Q. Do you remember any other converſation with Mr. Donnellan?

A. Yes, he generally endeavoured to make me believe Sir Theodoſius had caught cold, which had occaſioned his death.

Q. Are you acquainted with Mr. Donnellan's hand writing?

A. Yes; I have ſeen him write.

[*Letters ſhewn and admitted.*]

Q. What was the compoſition of the draught you ſent Sir Theodoſius, by Samuel Froſs?

A. Fifteen grains of rheubarb, and fifteen grains of jalap, of ſpirits of lavendar 20 drops, two drams of nutmeg water, two drams of ſimple ſyrup and one and a half ounce of ſimple water.

Q. What was the effect of the firſt draught?

A. It agreed with him perfectly well, but the ſecond made him ſick.

Croſs-Examination.

Q. Did it not occur to you to aſk what time the convulſions came on?

A. Yes; lady Broughton ſaid he was convulſed almoſt as ſoon as he had taken the draught.

Lady Boughton *ſworn.*

Q. How old was Sir T. Boughton?

A. He was twenty years on the 3d of Auguſt laſt.

Q. How much would he have been entitled to had he lived to come of age?

A. Two thouſand pounds per year.

Q. How long had Sir Theodoſius made part of the family at Lawford Hall?

A. About Michaelmas, 1778, he came from Mr. Jones's to live at home.

Q. Have you had any converſation with the priſoner about your ſon?

A. Yes; he has ſeveral times ſpoke to me about Sir Theodoſius's health.

Q. What were his expreſſions?

A. I told him I would move when Theodoſius came of age; he ſaid, no, do not move from Lawford, ſomething may happen before the time he comes of age, he is of a bad ſtate of health.

Q. Did you hear how long Sir Theodoſius intended to ſtay in Northamptonſhire?

A. No.

Q. Do you not recollect Mr. Powell ſending the bottle of phyſic?

A. Yes.

Q. Do you know where Sir Theodoſius uſed to put his phyſic?

A. Yes; he uſed to lock it up in a room; but having once forgot to take it, Mr. Donellan adviſed him to keep it out open on the ſhelf, in his own room.

Q. Did you ſee Sir Theodoſius on the Tueſday?

A. Yes; he went a fiſhing in the evening.

Q. Were

Q. Were there any of the men ſervants left in the houſe?

A. Yes; Samuel Froſs.

Q. How long was you and Mrs. Donnellan in the garden?

A. About an hour.

Q. Did Mr. Donnellan join you in your walk?

A. Yes; he came and ſaid he had been to ſee them fiſh, and had endeavoured to perſuade Sir T. to deſiſt for fear of cold.

Q. What time did Sir Theodoſius come home?

A. About nine o'clock he came home, eat ſome ſupper, and went to bed, and aſked my permiſſion to have my ſervant to go and get him ſome fiſhing tackle. About ſeven in the morning he deſired me to give him his phyſic. I aſked him where the bottle was, he told me, there it is on the ſhelf, get me a bit of cheeſe to take the taſte out of my mouth; he deſired me to read the label; I did; It was "*A purging draught for Sir T. Boughton*". Talking to him I forgot to ſhake the bottle; he ſaid, pour it in again; I did ſo, and ſhook and gave it him, it ſmelt like bitter aloes; he ſaid it was very nauſeous and very noxious.

Coun. Pray ſmell that bottle whether it is like the medicine you gave him?

A. Yes; it is very much like the ſmell.

Q. What was your obſervation?

A. I firſt gave him the cheeſe; he ſaid he did not think he ſhould be able to keep it down: I gave him ſome water and he rinced his mouth and ſpit it out; in about two minutes, or two and a half he ſeemed to rattle in the throat and ſtruggled to keep it down; he was in that ſtate about ten minutes, and then ſeemed more compoſed, upon which I left him and returned in five minutes, when, to my aſtoniſhment, I found him with his eyes ſtaring up, his teeth clenched, and froth running out of his mouth. I ſent for Mr. Powell and Mr. Donnellan; the priſoner

ſoner came up into the bed-chamber, and ſaid, what do you want? I have given my ſon what I thought was phyſic, that would if given to a dog kill him; he ſaid where is the bottle? I ſhewed it to him; he ſaid is this it? He took ſome water, rinced the bottle and poured it into the waſh hand-baſon.

Q. Did you upon that make any obſervation?

A. Yes, I ſaid, what are you about? upon which he ſnatched up the other bottle and rinced that, and then he ſaid he did it to taſte it.

Q. Did he taſte the firſt bottle?

A. No.

Q. Did any ſervants come up?

A. Sarah Blundell and —— Palmer.

Mr. Donnellan deſired Sarah Blundell to carry down the phyſic, bottles and baſon, but I ſtopt her; he then told her to take the clothes away and clean the room, and upon my back being turned, he put the bottles into Sarah Blundell's hand again, who took them away.

Q. Was Sir Theodoſius then dead?

A. He was nearly dead; one of the ſervants was wiping off the froth, and his ſtomach heaved. Some time after Mr. Donnellan and my daughter were together in the parlour. Mr. Donnellan ſaid to his wife, your mother has been pleaſed to take notice of my waſhing the bottles; and I ſhould not have known what to ſay if I had not put my finger in to taſte, upon which I turned to the window, and he again repeated it, and rang the bell, and deſired that Will, the coachman, might come up; he ſaid, Will, do you remember my going out this morning through the iron gate about ſeven o'clock? I have not been on the other ſide of the houſe this morning; you remember I came and aſked for my horſe. The man replied yes. Then ſays he, you are my evidence.

Q. Do you remember ſeeing a letter from Sir William Wheeler?

A. Yes.

Q. Did

Q. Did you ſtate any objections to the anſwer to it?

A. Yes, but did not explain them to him.

Q. Was Mr. Donnellan preſent at the examination before the Coroner?

A. Yes.

Q. Did you mention there the circumſtance of waſhing the bottle?

A. Yes, and on my return home he ſaid you have no occaſion to ſay any thing about the bottle, you are to ſpeak only what is aſked you. When the ſtockings were taken from the bed ſide, he ſaid here take them away, the feet are wet, and he has caught his death of cold.

Q. Did you and family eat out of the ſame diſh as he did generally?

A. Yes, but Mr. Donnellan deſired me not to drink out of the ſame cup, as Sir Theodoſius was afflicted with venereal complaints, and it would be better not to eat the bread he touched.

Croſs-Examination.

Q. Did you not go upon a viſit to Captain Donnellan and his wife at Bath?

A. Yes.

Q. How long before the death of your ſon did Captain Donnellan mention to you that he was in an ill ſtate of health?

A. About a month, or ſo.

Q. Had you not apprized Captain Donnellan and his wife before, that your ſon was in a bad ſtate of health, and that his fine complexion was gone?

A. Yes, In November 1778.

Q. Do you recollect a quarrel between Sir Theodoſius and a gentleman at Bath?

A. Yes.

Q. Did he not quarrel at Rugby once?

A. Yes.

Q. Did you not pray of Captain Donnellan to go and prevent it?

A. Yes.

Q. Did

Q. Did he not go and prevent any miſchief?

Yes.

Q. Had he not another quarrel at Daventry, and did not Mr. Donnellan ſave him?

A. I believe he did.

Q. What time did your Ladyſhip riſe on the 30th of Auguſt?

A. About ſeven o'clock.

Q. Was Mr. Donnellan gone to bed before Sir Theodoſius returned?

A. I believe he was.

Q. Was not Sir Theodoſius and the priſoner to have rode out the next morning?

A. Yes.

Q. Then when you went out of his room to the priſoner, and he aſked you if Sir Theodoſius was ready, how came it you did not mention his being convulſed?

A. Becauſe I thought it would go off.

Q. Did you before the Coroner mention about Mr. Donnellan ſaying, if I had not dipped my finger into the bottle I ſhould not have known what to ſay?

A. Yes, I think I did.

Q. Pray what was the analogy of the converſation between Mr. Donnellan and his wife, that he inſtantly rung for the coachman?

A. I don't know.

Q. Was the circumſtance of the priſoner's giving Sarah Blundell the bottle a ſecond time, mentioned to the Coroner?

A. I don't recollect.

Q. Has not your ſon ſent for a pound of arſenic at a time?

A. Yes, he has to poiſon fiſh and rats.

Q. Have you ever heard your ſon mention any thing of Captain Donnellan's behaviour to him?

A. They did not agree together.

From the Judge. Q. When Captain Donnellan mentioned

mentioned to his wife, did he ſeem to ſpeak in an angry tone of voice?

A. I don't know.

CATHERINE AMOS, Sworn.

Q. Was you at Lawford-Hall when Sir Theodoſius Boughton died?

A. Yes, I lived there as cook, and was called up ſtairs by Sarah Blundel, to wipe the froth from his mouth; he did not ſtir hand or foot, but his ſtomach heaved very much; he goggled very much in his throat. I then went down ſtairs, and in about half an hour, I ſaw Captain Donnellan, who ſaid to me, it was very filly that Sir Theodoſius had ſtaid out ſo late a fiſhing, as he had been taking phyſic before that time.

Q. Did you ſee Mr. Donnellan the day the body was opened?

A. Yes, and he ſaid there was nothing the matter, only a blood veſſel was broke.

Queſtion from the Judge, Did Sir Theodoſius ſpeak any thing after he had taken the bottle?

A. Nothing:—he lay down.

Q. Did you receive any thing from Captain Donnellan ſoon after Sir Theodoſius's death?

A. Yes, a ſtill to dry in an oven, which I did.

Rev. Mr. NEWSON, *Sworn.*

Q. Did you ſee Captain Donnellan at Lawford-Hall?

A. Yes, a few days previous to the death of Sir Theodoſius, when he told me that Sir Theodoſius had taken ſo much mercury, his blood was a maſs of mercury and corruption, and had at that time a large ſwelling in his groin, which they were endeavouring to bring to a head; that they were fearful of its getting into his head, as he had frequent ſwellings in his throat, his breath was offenſive, and his intellects were ſo much impaired that he ſcarce knew how to live with him. Upon which I replied, then his life is not worth two years purchaſe. He anſwered, no? not one.

I then aſked what advice he had, he ſaid Mr. Powell; and he had his medicines mixed up from a preſcription of Mr. Carr, at Northampton.

Q. Had you any reaſon to think from appearance that Sir Theodoſius was not in health?

A. No, he looked very well, and was in great ſpirits.

Q. Do you know upon what terms Captain Donnellan and Sir Theodoſius lived?

A. No, I do not.

Mr. William CARR, *Surgeon, at Northampton.*

Q. Did you attend Sir Theodoſius?

A. Yes, but he was not diſordered, he only a ſmall wart on the glands of the penis. I gave him only a preſcription for a lotion, but never preſcribed for a medicine inwardly.

Dr. RATTRAY, *Surgeon, Coventry.*

On the 4th of September I received a note not ſigned, deſiring I would come, and bring Mr. Wilmour with me to open the body of Sir Theodoſius.

Q. Did you go?

A. Yes.

Q. Who did you ſee?

A. Captain Donnellan, who directly ſaid to me, have you ſeen Sir William Wheeler. I replied no, but I expect him here; the coffin was ordered to be unſoldered while we received ſome refreſhment.

Q. Did you ſee any letter of Sir William Wheeler at that time?

A. Yes, he ſhewed me one, and only read one ſentence from it, and Captain Donnellan ſaid, gentlemen, you will excuſe me, upon which we went up, and Mr. Wilmour ſaid the body was too bad to open, upon which we agreed to go away without opening the body, as Captain Donnellan ſaid the body was only meant to be opened for the ſatisfaction of the family.

Q. Did Captain Donnellan mention any thing of poiſon?

A. No,

Q. When did you go to Lady Boughton's again?

A. On the 9th of September I received a letter, and went, where I found Mr. Snow and Mr. Wilmour in the Churchyard.

Q. How did the body then appear?

The body appeared swoln, the face extremely black, the tongue protruding beyond the teeth, and turned up towards the nose; the blackness diminishing as it went towards the breast; the body was spotted in several parts. We next proceeded to open the body, and the fat appeared to be in a dissolving state, the cavity of the lower belly, and the smaller arch of the stomach appeared inflamed. In opening the chest, the heart appeared to be in a natural state; the lungs appeard red and spotted, and on the back part the blood was settled of a deep red or purple colour. The diaphrgam the blood was settled in the like manner. The kidneys appeared black and tender, as did the liver.

Q. What was your opinion of the body, when you thus saw it?

A. I do firmly believe that the draft mentioned by Lady Boughton, by the symptons that followed, was the occasion of his death.

Q. Smell to that bottle, A. The liquid is laurel water.

Q. Would the medicine prescribed by Mr. Powell produce any such symptons?

A. No, it is perfectly innocent.

Q. Have you made any experiments of laurel water?

A. Yes, in company with Mr. Wilmour. I did upon a middle sized dog, who dropt down dead in half an hour.

The next was to an aged mare at repeated intervals, about one pint and half, who instantly precipitated to the ground, where she lay and kicked, her eyes rolled, she gulphed, and in about fifteen minutes she expired. We then gave a cat about a spoonful of laurel water, and she died in a few minutes.

This week I gave about a pint to an aged mare, but the first horn full she dropped to the ground—she

endeavoured to raiſe herſelf up on her hinder parts—we gave her another horn, and ſhe dropt—died greatly convulſed in twenty eight minutes—after ſhe was dead the body heaved—All the bodies I have ſeen opened have a violent diſtention of the nerves full of blood.

Q. Do you know of any medicine that ſmells like laurel water?

A. No.

Q. Does it ſmell like bitter aloes?

A. Yes.

Q. Was the quantity of liquid in a phial of laurel water ſufficient to kill a human body?

A. Yes.

Q. Then do you think Sir T. was poiſoned?

A. Yes, as far as one may be allowed to form appearances after death.

Croſs Examination.

Q. Then you ſay that after a body was ſo long dead, it was impoſſible to tell?

A. No, by no means, the analogy between the horſes and the body were much alike.

Q. Was you not deterred from opening the body by a naueſous ſmell?

A. Yes, as we did not hear of any purpoſe it was to anſwer.

Q. Did you not undertake to acquaint Sir Wm. Wheeler with the ſame?

A. No; but as I went away Mr. Donnellan ſaid, ſhall you ſee Sir W. Wheeler?—I replied, not that I know of—On the 6th of September I ſaw Sir W. Wheeler at the Black Dog——On the 9th of September I ſaw the body again.

Q. Does not five or ſix days in the heat of ſummer cauſe putrefaction to grow very faſt?

A. Yes, but the body was in that point far better an I thought for.

Q. Did you and Mr. Wilmour agree in reſpect to your opinion of the body?

A. Yes,

A. Yes, in general, but I was rather a novice before the Coroner, not being uſed to a thing of the kind.

Q. Have you been much uſed to anatomical diſſections?

A. Yes, as much as perſons in general are that are not entirely bred to anatomy.

Q. Did you well obſerve the ſtomach after diſſection?

A. Yes, there appeared about one ſpoonful and half of ſlimy matter, but not gritty that I perceived.

Q. What are the ſigns of inflammation?

A. A red appearance: we took out the ſtomach, and the liquor that iſſued out was of ſuch a ſtench, that we did not purſue it.

Q. Was you not at the time of the Coroner's Inqueſt of opinion, that the body was poiſoned by arſenic?

A. Yes.

Q. Then you think you were miſtaken then?

A. Yes.

Q. Then why may not you be miſtaken alſo now?

A. Becauſe from what Lady Boughton ſaid, laurel water ſeems much more the caſe.

Q. Might not the burſting of a blood veſſel occaſioned, by being made ſick, bring on convulſions?

A. Yes.

Q. Do not perſons who die of an epilepſy or apoplexy have the ſame ſymptoms?

A. No, I by no means think the ſymptoms alike, which Sir Theodoſius is ſaid to have had.

Q. Is it not cuſtomary when people are near dying that they froth at the mouth?

A. No.

Q. Is it not common when any medicine is given againſt the will to animals, that they froth at the mouth?

A. Yes, but where poiſon is given it always drives the blood as far as it can from the center of the body.

Q. Did you ſmell the liquor that came out of the body?

A. No other than what I was obliged to do, and which I then attributed to the volatile ſalt of the body, but I felt an acrimony on the tongue, and in all the operations I have made with laurel water, even by ſmelling to any open bottle, I have had the ſame acrimonious taſte.

Mr. R. WILMOUR, Surgeon.

Q. When you went to Lawford-hall to examine the body, what part did you ſee?

A. Only the face.

Q. Was there any mention made by the priſoner or any other perſon about the ſuſpicion of poiſon?

A. No.

Q. If there had, ſhould you have been ſatisfied in going away as you did?

A. No, I certainly ſhould have had the body opened.

From the Judge. Q. You have heard what Dr. Rattray has ſaid reſpecting the experiments made on dogs and horſes, in company with you; do you agree with him?

A. Yes.

Q. Do you think laurel water contained in a phial of the ſize of that the deceaſed took, ſufficient to deſtroy human life?

A. Yes, I am confident it would any man in court, in half an hour; Epilepſy is of two kinds, *primary* and *ſyſtematic*. By the primary I mean that a man may in the midſt of life, as Julius Cæſar did in the fulleſt health, drop down in convulſions, froth at the mouth, and afterwards either live or die. By the *ſyſtematic*, I mean, where any ſymptom appears, as I have ſeen by experience, where from a ſmall ſymptom at firſt, an epilepſy has been brought on, and the effect has been mortal.

Q. Do you know of what diſorder Sir Theodoſius died,

A. I

A. I have heard the evidence of Lady Boughton, and am confident that the death of Sir Theodoſius was occaſioned by taking the poiſonous draught adminiſtered to him by Lady Boughton.

Dr. A S H, of Birmingham.

Gave his opinion that agreeable to the evidence he had heard of the ſymptoms of Sir Theodoſius's death, that he died of a poiſon, and on opening the body there was that kind of ſmell which is generally to be found on the opening of animals, that are poiſoned by vegetable poiſon, not mineral.

Dr. PARSONS, Profeſſor of Anatomy at Oxford.

Gave it as his opinion, that from the nature of the conſtitution of Sir Theodoſius, he was confident he died by taking the draught contained in the bottle given him by Lady Boughton, and the ſmell of laurel water was extremely ſimilar to that of bitter aloes. The draught given him as preſcribed by Mr. Powell, containing Jallap and Rheubarb, would by no means occaſion any ſuch ſymptoms, as Sir Theodoſius had. Jallap diſagreed with ſome, and cauſed a heaving at the ſtomach, but nothing dangerous, he thought the ſymptoms of Sir Theodoſius were more like Apoplexy than Epilepſy.

Croſs Examination.

Q. Did you never hear of a perſon dying ſuddenly in the prime of life.

A. Yes, there a variety of cauſes which will bring on an Epilepſy.--Laurel Water is of ſo dangerous a nature, that I have known death brought on by taking only two drachms.

SAMUEL BUCKNELL, *Surgeon.*

I went to Lawford-hall on my own accord, and ſaw Mr. Donnellan who I informed that hearing of Dr. Rattray and Mr. Wilmour having been there, and declined opening the body, I was willing to undertake it, and open the ſtomach for the ſatisfaction of the family, if he pleaſed.---Captain Donnellan replied, that

that it would not be either fair or right to let any perſon meddle with the body after two men ſo eminent as Mr. Rattray and Mr. Wilmour had declined it—therefore I went away without opening the body. —On the 9th of September I went again and ſaw Captain Donnellan, and aſked him if he had ſeen Sir William Wheeler? he ſaid no, but he had received a letter from Sir William Wheeler, and he expected ſome gentlemen of the faculty, but he waited for Sir William Wheeler's further orders.

I went away, and returned in about an hour, and aſked if Mr. Snow had been there? Captain Donnellan ſaid yes, he has been here, and is gone; he has given the neceſſary directions, and I am very ſorry you have given yourſelf ſo much unneceſſary trouble; upon which I went away.

WILLIAM FROSS, *coachman to* Lady Roughton.

On the day of Sir Theodoſius's death Captain Donnellan and my Lady was to have gone to the Wells to drink the waters.—He felt the girths, and ſaid, they are faſt, I believe Will.—He ſaid Lady Boughton was not ready, upon which I then led my Lady's horſe into the ſtable—where my Lady ſent to me, and ſaid, Will, go to Dr. Powell, and fetch him, for Sir Theodoſius is very ill. I replied, my Lady there is no horſe left but yours, that, ſays ſhe, will not go faſt enough.—I replied, the Captain is juſt gone out.—She ſaid, go fetch him; I did—and ſome time after he called me into the parlour, and ſaid, Will, which gate did I go out at this morning?—I replied, the iron gate, your honour. Upon which the Captain turned round to his wife, and ſaid, there, you hear what Will ſays, —he will be a good evidence for me.

SAMUEL FROSS.

I went to Mr. Powell's for a medicine for Sir Theodoſius, on Tueſday the 29th of Auguſt, 1780, and received it from Mr. Powell, which I brought home, between 5 and 6 o'clock, and gave to Sir Theodoſius

himſelf,

himſelf, who put it in his room.—We afterwards went to fiſhing, and Sir Theodoſius ſat on horſeback to ſee us fiſh, the whole time, with his boots on. The next morning I went into his room, about ſix o'clock, to wake him, and get ſome ſtraps to fix a net on a mare to go to Dunton a fiſhing, and Sir Theodoſius jumped out of bed and fetched them, with a portmanteau, out of another room; and he then appeared in a good ſtate of health.

Croſs Examination.

Q. Who was preſent when you gave Sir Theodoſius the medicine?

A. His ſiſter.

Q. Did you ſee Mr. Donnellan that evening you was fiſhing?

A. Yes, he was walking in the garden.

Q. Was not Captain Donnellan in bed when Sir Theodoſius came home at night?

A. I don't know, Sir Theodoſius did not come home until it was dark.

MARY LYON.

I lived at Lady Boughton's until about a month before Sir Theodoſius died. Captain Donnellan lived there all the while, and had a ſtill which he uſed to diſtil roſes in, but whether he uſed to diſtil any thing elſe I cannot ſay, the room where the ſtill was was kept lockt.

FRANCIS AMOS, *gardener to* Lady Boughton.

I lived at Lawford-hall, and was out a fiſhing with Sir Theodoſius the evening before he died.

Q. Was Captain Donnellan a fiſhing with you?

A. No.

Q. Did you hold any converſation with Captain Donnellan?

A. Yes, the evening of Sir Theodoſius's death, Captain Donellan ſaid, Gardener, now you ſhall live at your eaſe; you ſhall not be worked as you were in Sir Theodoſius's time.—I have wanted to be maſter a long time, and now I am maſter, and will hold it.—

Captain Donnellan a few days after Sir Theodoſius died, brought him a ſtill to clean, which was full of wet lime, that the Captain ſaid was to kill fleas.

Q. Have you ever gathered any thing out of the garden for the Captain to diſtil from?

A. Yes, I have gathered him lavender

Q. Does your garden contain any laurel?

A. Yes, a great deal, and bay-leaf too.

Q. Did Captain Donnellan ſay any thing to you on the morning of Sir Theodoſius's deceaſe?

A. Yes, he deſired me to get two pigeons for Sir Theodoſius, who, he ſaid, was very bad, and would die of that curſed diſorder, the pox. I told him there were no pigeons fit; and juſt as I was ſpeaking to him, Lady Boughton came out, wringing her hands, ſaying, it was too late now, for Sir Theodoſius was dead.

WILLIAM CROFTS, *one of the coroners inqueſt.*

I ſaw the priſoner at the time Lady Boughton was giving her evidence, pull her by the ſleeve, when ſhe mentioned the rincing of the bottle in Sir Theodoſius's room.

JOHN DERBYSHIRE, *a priſoner for debt in Warwick goal.*

I lived for above a month in the ſame room with the priſoner, and in a converſation I aſked him, whether he thought the deceaſed was poiſoned? he replied, he had no doubt of it. I aſked him, who could do it? he anſwered, themſelves. Who are themſelves? Why ſays he, his mother, himſelf, apothecary, and family. I replied, Sir Theodoſius could not do it. No, ſaid he, I don't think he would: the apothecary could not, for he would loſe a patient: the footman could not, for he would loſe a good maſter: and it was unnatural to think Lady Boughton would. He then talked of the covetouſneſs of Lady Boughton; ſaid, ſhe had received an anonymous letter the day after Sir Theodoſius's death, charging her with

with the death of her ſon; that ſhe had deſired him to conceal the letter from his wife, and had aſked him to give up his claim to the perſonal eſtate.

Croſs Examination.

Q. What are you?

A. I have been a reputable tradeſman.

Q. Have you not failed twice?

A. Yes, I have been twice a bankrupt, but I fell fairly.

Q. Do you know Sir Alexander Leith and Mr. Pope?

A. I know Mr. Pope, but do not know, nor did I ever ſee, Sir Alexander Leith.

Sir WILLIAM WHEELER, Bart. *guardian to the deceaſed, ſworn.*

Proved the letters that had been delivered into court, and the reaſon of his writing to Captain Donnellan was, on Friday the 1ſt of September, he heard of a ſuſpicion of there being poiſon given. The next letter was the 4th of September, where he propoſes to have the body opened, as Sir Theodoſius was ſaid to be killed by medicine or poiſon.

EDWARD ORME.

I received a letter from Mr. Roe, the goaler, directed to Mrs. Donnellan; it was not ſealed, and I had curioſity enough to copy it; I took it to Rugby, and there gave it to a perſon to carry over to Lawford-hall.

Mr. ROE, *goaler.*

I delivered a letter to Orme, which I received from the ſervant who waits on Captain Donnellan.

Q. As the letter was notſealed, had you curioſity enough to open it?

A. Yes, I did, and read it.

The evidence on the part of the proſecution being cloſed, the letters which had been referred to were delivered into court, and his Lordſhip informed the priſoner, that then was the time for him to make his

defence; upon which the Priſoner delivered to the Clerk of the Arraigns, a written paper, which was read as follows:

PRISONERS DEFENCE.

My Lords and Gentlemen of the Jury.

Permit me at this unfortunate period of my life, to ſtate to you, that many falſe and injurious reports have been induſtriouſly circulated concerning me, in the various town and country news papers, ever ſince I have been in confinement.—The reports have been equally injurious to my honor, and dangerous to my ſafety. I have moſt undeſervedly laboured under a load of prejudice, ſuch a load, as I believe, no man ever ſuſtained, or at leaſt was ever tried under.—I hope, however, that the integrity and juſtice of your Lordſhip, and the wiſdom of you, Gentlemen of the Jury, will relieve me from any effect theſe wicked aſperſions may have cauſed in the minds of men, and do me that ſtrict juſtice which I have an indiſputable right to. When I firſt married Mrs. Donnellan, I did it at the deſire of her friends. I did it on the moſt liberal principles, and in the moſt generous manner, for I bound myſelf under ſuch reſtrictions, that I could not receive even a life enjoyment in any eſtate of hers, either actual or in expectancy, without her conſent.

What inducement then could I have to perpetrate ſo wicked, ſo cruel, and ſo horrid a deed, as I ſtand charged with, when no advantage could be derived to myſelf. We have lived together ever ſince my marriage in the moſt perfect harmony and friendſhip, and I truſt that the manifold proofs of my friendſhip for the deceaſed, by having frequently interfered in quarrels, and kept him from differences that might endanger his perſon, will appear to you, Gentlemen, that my conduct was not like one that would wiſh to deprive another of his life.

Immediately

Immediately on the deceaſe of Sir Theodoſius, I wrote to his guardian, Sir W. Wheeler, to acquaint him of the melancholy event, and in purſuance to the anſwer I received, ſent for the Doctors deſired; they met, and the readineſs I ſhewed for the body to be inſpected, will, I am confident, ſufficiently prove, that I was innocent of what I am charged.

I have to requeſt, that you will not ſuffer the load of prejudice, that is gone forth, to act in the leaſt degree againſt me, but that you will with candor and impartiality, do me ſtrict juſtice, as you would expect it yourſelves.

ANDREW MILLER, Poſt-maſter, keeps the Bear at Rugby.

In June 1778, there happened a quarrel between Sir Theodoſius and Mr. Wildbore, and Mr. Donnellan was ſent for, and I think he then prevented fighting, but it is ſo long ago, I do not perfectly remember the affair.

Mr. LOGGAN.

I was preſent at a quarrel between Sir Theodoſius and Sir W. Millet, upon which Mr. Charters interfered, and a challenge enſued. Sir Theodoſius ſent for Mr. Donnellan, who came and prevented the quarrel coming to any dreadful iſſue.

Mr. HUNTER.

Q. Can any certain chirurgical reaſons be given for the cauſe of Sir Theodoſius's death, by the ſymptoms mentioned by Lady Boughton?

A. By the internal and external appearance of the diſſection, nothing could be formed, except that of the putrefaction.

Q. If an apoplexy had come on, would not the ſymptoms been nearly the ſame?

A. Yes.

Q. Did you never know any young man die of an apoplexy?

A. Yes, but not very frequent. Young perſons more

more frequently die of an Epilepſy than of an Apoplexy.

Q. Did you ever know Laurel Water given to a human perſon?

A. No.

Q. Did you ever try poiſon on animals?

A. I have poiſoned ſome thouſands.

Q. Has poiſon the ſame effect on brutes as it has on the human ſpecies.

A. Opium and Arſenic will act alike, on the human frame and brute creation. It is a notion that brandy will kill a cat, I have tried it, and have killed many cats. Yet it is a miſtaken maxim, for the reaſon is, that by being given contrary to the will of the animal, the violent ſtruggling againſt it frequently occaſions ſome of the liquor to reach the lungs, which is the cauſe of the death.

Q. Had you been preſent at the diſſection, would you not have examined the inteſtines?

A. Had I been called on to give my opinion on a matter of the kind, I ſhould have purſued my ſearch to the inteſtines moſt certainly, as the bowels are the tract in which the poiſon muſt have worked, and had the head been opened it would have produced much greater ſatisfaction, as a large quantity of extravaſated blood would have been found, had the body died of an epelipſy or apoplexy.

Q. Does it not frequently happen that where the father has died of an apoplexy, that the ſon has done the ſame?

A. In all caſes *conſtitutional* diſeaſes are liable to be hereditary, but no acquired diſeaſe can be communicated to a child.

Q. Having heard the deſcription which the other gentlemen have given of the ſymptoms before death, and the appearances after, might not the ſame ſymptoms and appearances have been produced by other cauſes?

A. I have not the leaſt doubt of it.

Croſs

Croſs Examination.

Q. Is it cuſtomary for perſons that are not poiſoned to froth at the mouth when dying?

A. The healthieſt perſons generally do froth when dying, and heaving is produced by the ceaſing of the voluntary actions.

Q. Have you ever uſed laurel water to any animals?

A. I have given it to dogs by introducing it into the ſtomach and veins, and it has produced death, but not ſo ſuddenly as deſcribed by ſome of the witneſſes.

Q. Do you conceive an apoplexy as a conſtitutional diſorder?

A. Yes; as conſtitutional as any other.

Q. Would not laurel water have produced the ſame effects, as have been deſcribed by lady Boughton and the gentlemen of the faculty who have given their opinions?

A. I can conceive it might.

(*From the judge*) Q. Is it common for young men in health, and thin in perſon, as the late Sir Theodoſius was, to die of an apoplexy?

A. Thin perſons are not ſo liable to apoplexies as others, but health ſignifies nothing.

Q. Then, upon the whole, do you think that Sir Theodoſius's death was cauſed by taking the draughts adminiſtered by lady Boughton?

A. I feel myſelf in a difficult ſituation. I do not mean to heſitate or keep back the truth; but it is a hard thing to ſay; it might be from that, or from many other cauſes; the healthieſt perſons are frequently taken off quite ſuddenly.

Here cloſed the evidence for the priſoner, upon which his Lordſhip began to ſum up the whole of the evidence that had been given, which he did with great accuracy, candour and impartiality: as the evidence had been very long and a great part of it technical he deſired the Council or Jury to ſet him right if he ſhould

ſhould by chance miſtake any part of it. He reprobated the method of inſerting in news-papers reports previous to a trial, as they undoubtedly were means of prejudicing people's minds, but he ſtrictly charged the Jury not to pay any attention to the reports they had heard but adhere to the evidence that had been given.

His Lordſhip particularly adverted to the rinong of the bottles; the ſtill being filled with lime the priſoner having mentioned that Sir Theodoſius had got wet in the feet; the letters to Sir William Wheeler, &c. &c. and deſired the Jury to find, if they could, anſwers to thoſe facts. The indictment, he ſaid, pointed out that arſenic had been uſed; that was perfectly immaterial whether it was arſenic, laurel water, or any other poiſon, if it appeared to them that the deceaſed had been poiſoned it was ſufficient, the next caſe for them to conſider, was, whether the priſoner was the perſon who had poiſoned him, and in caſes of poiſon a ſtrong chain of circumſtancial evidence was as full proof as could poſſibly be expected.

The Jury went out of Court, and in about ten minutes time returned with a verdict, That he was GUILTY.

The clerk of the arraigns then aſked the priſoner what he had to ſay why ſentence of death ſhould not be paſſed upon him, and on receiving no anſwer, his Lordſhip aroſe, put on his cap, and addreſſed him as follows:

JOHN DONNELLAN,

You now ſtand convicted on the cleareſt evidence that could be produced, of the crime of murder, which, of all crimes next to thoſe againſt the ſtate, the government, or the conſtitution, is the moſt atrocious. Of all murders, poiſoning is the moſt horrible; and if there may be degrees allowed in that ſpecies of guilt, that of which you are now convicted ſurpaſſes all others of the kind that went before yours, as much as murder itſelf ſurpaſſes other crimes. The

place,

place, the manner, and the perſon on whom you committed this murder greatly enhance your guilt.—It was committed at a place where you had an opportunity of friendly intercourſe with the deceaſed, and was little expected to commit an act of ſo horrid a nature. But your ambition has made you commit what every honeſt mind muſt ſhudder at. You have cut off the riſing offspring of an ancient and reſpectable family. In the commiſſion of this cruel act, avarice ſeems to have been your motive, and hypocriſy was your cloak. The greatneſs of his fortune has cauſed the greatneſs of your crime: you ſaw him likely to be in the poſſeſſion ſhortly of an ample fortune, equal to ſupport the ancient dignity of his family. You ſaw that his death would put you into the enjoyment of that fortune, and therefore wickedly determined to ſacrifice the devoted youth who ſtood between you and your ambitious deſigns.

The blackneſs of your crime is the deeper ſtill from the conſideration that the unhappy youth ſtood in ſo near a relation to you, and that you took away his life under the treacherous maſk of friendſhip, and a pretended care of his health. The inſtrument too, which you made choice of for this deteſted purpoſe, is an additional aggravation of your offence. It was not ſufficient to ſacrifice the life of the ſon, but you muſt pitch upon his unhappy mother for the innocent inſtrument of your foul purpoſe.

The act itſelf was not ſuddenly thought of. It was deliberated long, and the longer the deliberation was, the greater was your offence. It was accompanied with ſo many arts and ſo much previous caution that it ſeemed to defy detection, but from a fatality which ever attends actions of ſo black a die, and which I truſt ever will attend all the ſecret deſigns of murder, circumſtances have ariſen that have brought to light the guilt which you uſed ſo much art to conceal.

For in moſt caſes of murder Heaven generally

 points

points out a door for conviction, which the murderer ſeems to think ſhut.

In your caſe there appears to be a peculiar interference of Heaven to bring the crime to light; for out of the very extraordinary pains which you took to conceal the offence, circumſtances have ariſen that are ſo ſingular in their nature, and ſo correſpondent with each other that they have indubitably marked you as the perpetrator of this murder.

In a fact of ſo ſecret a kind, circumſtantial evidence is the only evidence that can generally be expected; and in your caſe circumſtances have appeared than which I will venture to ſay no ſtronger have ever been known. They have perfectly ſatisfied the Jury of your guilt; and I implicitly concur in opinion with them. In the detail of this evidence your letters to Sir William Wheeler are none of the weakeſt. They are full of the utmoſt deceit, and in them it appears, moſt clearly, that you have endeavoured to prevent that reſpectable gentleman from enquiring into the cauſe of the deceaſed's death, and your rincing out the bottles, that nothing might be traced from them, appears to me as plain a proof of your guilt as poſſibility could produce. After you have been convicted on ſo clear an evidence, you cannot expect to meet with any thing but ſtrict juſtice here, but you will ſhortly appear before an aweful tribunal, where the ſecrets of all men's hearts are laid open, and however you might hope to elude the penetration of an earthly judge, that Almighty and all-knowing judge, at whoſe bar you are next to render account of this unhappy fact, is already acquainted with the inmoſt devices of your heart.—The education you have had muſt convince you of this truth, and that during the ſhort time you have now to live, a deep contrition for your manifold ſins is the only means you have left to make your peace hereafter.—May the Almighty in his utmoſt wiſdom pardon you!

But

But it is my duty to paſs the ſentence of the law upon you, which is, *That you*, John Donnellan, *be taken from hence to the place from whence you came, and on Monday next that you be carried to the place of execution, there to be hanged by the neck until you are dead, and that your body be afterwards given to the ſurgeons to be diſſected and anatomized; and the Lord have Mercy on your ſoul!*

The gaoler directly ſaid to the priſoner, Turn to the Judge and beg your body off from diſſection; upon which the priſoner replied, *It is perfectly indifferent to me what becomes of my body.*

During the whole of the trial, which laſted near twelve hours, the priſoner ſtood, to all appearance, totally reſigned to his fate.

F I N I S.